



City of Seattle

Gregory J. Nickels, Mayor

Department of Planning and Development

Diane M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2204368

Applicant Name: Dan Corcoran for Bill and Natasha Davis

Address of Proposal: 4037 Phinney Avenue North

SUMMARY OF PROPOSED ACTION

Master Use Permit for future construction to add exterior stairs and to vertically expand a single family house. Project includes raising the height by 15 inches and an addition to exterior stairs.

The following approvals are required:

Variance - to allow the expansion of a nonconforming structure (SMC 23.42.112).

Variance - to allow a vertical expansion of an existing structure in the required front yard (SMC 23.44.014.A).

SEPA DETERMINATION: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or
involving another agency with jurisdiction

*Project was originally noticed, Master Use Permit for future construction of 163 square foot expansion to existing basement garage. Project includes 11 square foot expansion of front porch.

BACKGROUND DATA

Site Description

The 4000 square foot site is at the southwest corner of Phinney Avenue North and North 41st Street. The lot dimensions are 40 feet by 100 feet and the zoning is Single Family 5000. North 41st Street is unimproved and is used as access for 3 homes which abut the street.

The topography east and west of this street segment is steep which prevents vehicle access. Phinney Avenue North is fully improved with sidewalk, curb and gutter on both sides of the street.

The home is sited on the front portion of the site; the existing front yard is 7 feet with a set of concrete stairs further encroaching into the yard. The other yards are conforming to code. Territorial views are available from the site.

Area Development

All the surrounding property is zoned Single Family 5000 and developed with single family homes. Phinney Avenue North is steep at this location as it ascends towards Fremont's commercial core. Topography to the east consists of steep slopes so the homes are substantially higher than the street. North 41st Street is not improved east of Phinney Avenue North because the topography is very steep. The development pattern at this location consists of rows of homes on the west side of Phinney Avenue that follow the street grade. Development on the east side of Phinney Avenue is elevated over the street and out of view so it seems disconnected to street. Development to the west, along Greenwood Avenue North is out of view in that the homes are below the elevation of the homes on Phinney Avenue.

Proposal

The applicant proposes to elevate the house 15 inches and construct a new foundation to create a basement with ceiling heights of 7'2" (6'6" to bottom of beam). New stairs in front of the house will be required because the floor level will be higher. The basement foundation walls will be within the existing footprint. As such, while the building will be 15 inches higher, no additional projections into the required yards, except for the new front stairs, will be made as a result of the new construction.

The project will also include expanding the garage width inside the existing footprint of the basement by 7 feet for a total of 163 square feet. The area will not allow another parking space in the garage, but will likely be utilized for storage or a workshop. The existing concrete stairs which provide access to the front porch will be removed and wood stairs will be constructed to replace them. Two stair risers will be added to gain access to the porch in that it will be 15 inches higher. Deck and exterior stairs on the street side of the house will be removed so that there will not be any portion of the house above 18 inches from grade in the required 5 foot side yard.

A variance is required for this work because portions of the existing structure extend into the required front yard and increasing the height increases the extent of the non-conformity. The applicant's

proposal would increase the vertical size and bulk of the existing encroaching portion of structure by raising the whole structure in the required front yard. The structure is conforming as to height and with the increased height due to the increased height of the basement, the peak of the roof will be about 32 feet above grade at the highest point, less than the thirty-five (35) foot maximum. Specifically, variances are required to:

- Allow the expansion of a nonconforming structure (SMC 23.42.112).
- Allow a vertical expansion of an existing structure in the required front yard (SMC 23.44.014.A).

Public Comments

No public comments were received during the comment period which ended on April 14, 2004.

ANALYSIS –VARIANCE

Pursuant to SMC 23.40.020(C), variances from the provisions or requirements of the Land Use Code shall be authorized when all the facts and conditions listed below (in the numbered paragraphs) are found to exist. Analysis for the variances requested follows each statement of required facts and conditions.

1. *Because of unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of this Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone or vicinity;*

This 4,000 square foot proposal site is a legal non-conforming parcel located in a single-family residential zone with a 5,000 square foot minimum lot area. The site is developed with a house built in 1904 that provides 1,959 square feet of living space on the first and second floors. The basement has a ceiling height varying from 5'10" to 6'1" and has an area of 910 square feet. The attached one car garage is 320 square feet and abuts the basement. The total square footage of the house including basement and garage is 3,189 square feet. The house is located on the front portion of the parcel and only provides a 7 foot setback.

The existing basement has a sloped slab making it difficult to use and is uninhabitable per the building code. Past remodels to the floors above have left the basement space chopped up by multiple walls and columns making the space difficult to use. The current property owner is 6 foot 5 inches tall which makes the ceiling height particularly uncomfortable.

Other properties south of this site on Phinney would likely be able to expand vertically in that they seem to meet the yard requirements and are generally 1 ½ stories tall. Given that the subject house is located within its front yard and cannot expand pursuant to the land use code, and that this condition was not created by the applicant, this would deprive the property of rights and privileges enjoyed by others in the same zone and vicinity.

2. *The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;*

The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the proposal site is located. The minimum ceiling height per the Seattle Building Code is 7 feet but allows beams to project a maximum of 6 inches. In this case, the applicant proposes to use 8 inch steel beams so the SBC will require a ceiling height of 7 feet 2 inches in order to meet the 6 foot 6 inch minimum requirement. The applicant did explore lowering the basement slab to gain ceiling height; however, this option would require extensive work to construct new footings at the base of the foundation walls. Granting this variance would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located.

3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;*

Increasing the height of the structure in the required front yard will not be materially detrimental to the public or injurious to the property or improvements in the zone or vicinity. The increase in size and bulk of the structure will not exceed the height limit for the zone, will not adversely impact views beyond what is allowed by the Code, and will not have any apparent adverse impacts to the proposal site or vicinity.

4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue and unnecessary hardship;*

The literal interpretation and strict application of the applicable provisions or requirements of the Land Use Code would cause undue and unnecessary hardship. Strict application of the applicable codes would frustrate the applicant's attempt to upgrade and modernize the foundation of the existing structure, unless significantly more expensive, disruptive and time consuming excavation methods were employed. The Land Use Code is written to cover the majority of all land use and development situations. The variance provision of the Code is available to those situations where unique situations exist which justify a divergence from Code requirements. Thus, the literal interpretation and strict application of the front and rear yard requirements of this Land Use Code would cause undue and unnecessary hardship

5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations in the area.*

The purpose of the Land Use Code is to protect and promote public health, safety and general welfare through a set of regulations and procedures for the use of land which are consistent with and implement the City's Comprehensive Plan. Procedures are established to increase citizen awareness of land use activities and their impacts and to coordinate necessary review processes. The Land Use Code classifies land within the City into various land use zones and overlay districts which regulate the use and

bulk of buildings and structures. The provisions are designed to provide adequate light, air, access, and open space; conserve the natural environment and historic resources; maintain a compatible scale within an area; minimize traffic congestion and enhance the streetscape and pedestrian environment. They seek to achieve an efficient use of the land without major disruption of the natural environment and to direct development to sites with adequate services and amenities. The requested variance is consistent and does not conflict with the purpose of the Land Use Code.

DECISION - VARIANCE

The proposed variance to allow the expansion of a nonconforming structure and to allow a vertical expansion of an existing structure in the required front yard is **APPROVED**.

Signature: _____ Date: August 19, 2004

Jess Harris, AICP, Senior Land Use Planner
Department of Planning and Development

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